

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

STATE FARM FIRE & CASUALTY CO. as subrogee of KELLEY)	Case No.
)	
Plaintiff)	COMPLAINT
)	(Strict Product Liability)
v.)	
)	Subject to Mandatory Arbitration
)	
HOME DEPOT U.S.A., INC. and)	Amount Sought: \$298,878.60
ONE WORLD TECHNOLOGIES, INC.,)	Filing Fee \$594.00 (ORS 21.160(1)(c))
)	
Defendants)	
)	

COMES NOW the plaintiff and alleges:

1.

Plaintiff and Defendant are corporations authorized to do business in Oregon.

2.

All material acts and omissions alleged herein occurred within Clackamas County, Oregon.

3.

Less than ten years prior to the commencement of this action, Defendants manufactured and/or distributed a Ryobi RV40406 40V leaf blower its lithium ion battery packs and charger, and its associated connections and components (hereinafter “the product.”)

Page 1 COMPLAINT (Strict Product Liability)

Law Office of J. Jason Marquait
7830 SW 40th Ave., Suite 8
Portland, OR 97219
Ph. (503) 245-0110

1 4.

2 Plaintiff provided insurance coverage to Marjorie Kelley, providing property and casualty
3 insurance for real and personal property located in Clackamas County, Oregon at all times
4 material herein (“the property”). Ms, Kelley is hereinafter referred to as “plaintiff’s insured.”
5 Plaintiff is subrogated to the rights of its insured to the extent of the payments made pursuant to
6 its policy of insurance, as set forth below.

7 5.

8 At all times material herein, the product was being used in its intended manner according to its
9 manufacturer’s specifications, and if not, was at all times being used in a reasonably foreseeable
10 manner.

11 6.

12 The product was expected to, and did reach the plaintiff’s insured’s property without substantial
13 change in condition from the time it was manufactured and placed into the stream of commerce
14 by defendants, and remained substantially unchanged until the date of the malfunction described
15 herein. The product was manufactured and distributed in an unreasonably dangerous condition,
16 due to a manufacturing and/or design defect, as hereinafter described.

17 7.

18 On or about October 12, 2019, the product malfunctioned, resulting in a fire, which caused
19 damage to the property described above.

20 8.

21 The incident described above was directly and proximately caused by the unreasonably
22 dangerous condition of the defendant’s product.

23 9.

24 The incident caused damage to plaintiff’s insured’s real and personal property described above,
25 all to her total damage in the amount of \$298,878.60. Pursuant to the terms of its policy of

26 Page 2 COMPLAINT (Strict Product Liability)

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1 insurance with its insured, plaintiff was required-to, and did pay the amount set forth above.

2 10.

3 Pursuant to ORS 30.900, et. seq., defendants are strictly liable for manufacturing and/or
4 distributing the product in an unreasonably dangerous condition.

5
6 WHEREFORE, the plaintiff respectfully requests that this Court enter a judgment against
7 defendant:

8 (1) Awarding plaintiff \$298,878.60;

9 (2) Awarding plaintiff its costs and disbursements incurred herein; and

10 (3) For such other relief as the Court deems just and equitable.

11
12 DATED: April 23, 2021

13
14 /s/ J. Jason Marquoit
15 J. Jason Marquoit, OSB# 99318
16 Attorney for Plaintiff
17
18
19
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21
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24
25

26 Page 3 COMPLAINT (Strict Product Liability)

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AFFIDAVIT OF SERVICE

State of Oregon

County of Clackamas

Circuit Court

Case Number: 21CV15881

Plaintiff:

STATE FARM FIRE & CASUALTY CO. as subrogee of KELLEY

vs.

Defendant:

HOME DEPOT U.S.A., INC. and ONE WORLD TECHNOLOGIES, INC.

For:

Jason Marquoit
7830 S.W. 40th
Suite 8
Portland, OR 97219

Received by Barrister Support Service to be served on **HOME DEPOT U.S.A., INC. R/A: CORPORATION SERVICE COMPANY, 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301.**

I, Bobby Chandler, being duly sworn, depose and say that on the **3rd day of May, 2021 at 12:10 pm, I:**

SERVED the within named **HOME DEPOT U.S.A., INC. at 1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301** by personally serving a true copy of the **SUMMONS AND COMPLAINT** upon **AUDREY GROOM**, who is a clerk on duty in the office of the Registered Agent and who is authorized to accept service.

CERTIFICATION OF MAILING: I certify that on **5/5/2021** a true copy of **SUMMONS AND COMPLAINT** along with a statement regarding the date, time and manner of service was mailed to **HOME DEPOT U.S.A., INC. R/A: CORPORATION SERVICE COMPANY** at **1127 BROADWAY STREET NE, SUITE 310, SALEM, OR 97301** by First Class Mail postage paid.

Description of Person Served: Age: 25, Sex: F, Race/Skin Color: CAUCASIAN, Height: 5'8", Weight: 200, Hair: BROWN, Glasses: N



AFFIDAVIT OF SERVICE For 21CV15881

I declare I am a resident of the State of Oregon. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding. I certify that the person, firm, or corporation served is the identical one named in this action. I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

STATE OF Oregon

County of Multnomah

Subscribed and Sworn to before me on the 5 day
of May, 2021 by the affiant who is
personally known to me or has provided identification.

Terry
NOTARY PUBLIC



Bobby Chandler
Bobby Chandler
Process Server

Date 5/5/2021

Barrister Support Service
11349 SW 60th Ave
Portland, OR 97219
(503) 246-8934

Our Job Serial Number: TSB-2021002080
Ref: OR-F210

6181

SUB-SERVICE COPY

SUB-SERVICE COPY



Malstrom's Process Serving, Co.
155 Culver Ln S
Salem, Oregon 97302
Customer Service is our Specialty!



US POSTAGE
\$ 00.51
First-Class
Mailed From 97302
05/05/2021
032A 0061855747

*Home Depot U.S.A., Inc.
R/A Corporation Service Company
1127 Broadway Street NE, Suite 310
Salem, OR 97301*

SUB-SERVICE COPY

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

STATE FARM FIRE & CASUALTY CO.)	Case No. 21CV15881
as subrogee of KELLEY,)	
)	SUMMONS
Plaintiff)	
v.)	
)	
HOME DEPOT U.S.A., INC. and)	
ONE WORLD TECHNOLOGIES, INC.,)	
)	
Defendants)	

To: HOME DEPOT U.S.A., INC.
c/o CORPORATION SERVICE COMPANY
1127 BROADWAY STREET NE STE 310
SALEM, OR 97301

Defendant
(Registered Agent)

You are hereby required to appear and defend the complaint filed against you in the above-entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney, or if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

[Signature of Attorney/Author for Plaintiff]

J. Jason Marquait, OSB No. 99318

LAW OFFICE OF J. JASON MARQUAIT

7830 SW 40th Ave., Suite 8

Portland, OR 97219

(503) 245-0110

STATE OF OREGON, County of Multnomah) ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above-entitled action.

Attorney of Record for Plaintiff(s)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

Attorney of Record for Plaintiff(s)

ORIGINAL

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF CLACKAMAS

STATE FARM FIRE & CASUALTY CO.) Case No. 21CV15881
as subrogee of KELLEY,)
) SUMMONS
Plaintiff)
v.)
)
HOME DEPOT U.S.A., INC. and)
ONE WORLD TECHNOLOGIES, INC.,)
)
Defendants)

To: HOME DEPOT U.S.A., INC.
c/o CORPORATION SERVICE COMPANY
1127 BROADWAY STREET NE STE 310
SALEM, OR 97301

Defendant
(Registered Agent)

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[Signature of Attorney/Author for Plaintiff]
J. Jason Marquoit, OSB No. 99318
LAW OFFICE OF J. JASON MARQUOIT
7830 SW 40th Ave., Suite 8
Portland, OR 97219 (503) 245-0110

STATE OF OREGON, County of Multnomah) ss.

I, the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above-entitled action.

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

Attorney of Record for Plaintiff(s)

Attorney of Record for Plaintiff(s)

ORIGINAL

AFFIDAVIT OF SERVICE

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF CLACKAMAS**

Case Number: 21CV15881

Plaintiff:

**STATE FARM FIRE & CASUALTY CO. as
subrogee of KELLEY**

Service Documents:

SUMMONS AND COMPLAINT

vs.

Defendant:

**HOME DEPOT U.S.A., INC. and ONE WORLD
TECHNOLOGIES, INC.**

For: Jason Marquait

Received by BARRISTER SUPPORT SERVICE, INC. on the 28th day of April, 2021 at 1:35 pm to be served on ONE WORLD TECHNOLOGIES, INC R/A: CORPORATION SERVICE COMPANY, 251 LITTLE FALLS DRIVE, WILLMINGTON, DE 19808. I, Danielle Stevens, being duly sworn, depose and say that on the 30th day of April, 2021 at 3:55 p.m., executed service by delivering a true copy of the **SUMMONS AND COMPLAINT** in accordance with state statutes in the manner marked below:

() PUBLIC AGENCY: By serving _____ as
_____ of the within-named agency.

() SUBSTITUTE SERVICE: By serving _____ as
_____.

(x) CORPORATE SERVICE: By serving Lynanne Gares as
Litigation Mangement Service Leader Authorized to Accept.

() OTHER SERVICE: As described in the Comments below by serving
_____ as _____.

()NON SERVICE: For the reason detailed in the Comments below.

() POSTED SERVICE: on _____ (date) at _____ (time) to a conspicuous place on the property described herein.

[CERTIFICATION OF MAILING] I hereby certify that on 5/3/2021 (date) a true copy of the above document was mailed to the defendant(s) with a copy of this proof of service.

COMMENTS: _____

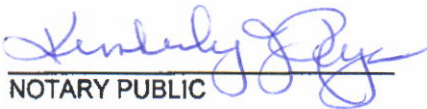
Age 35 Sex M F Race White Height 5'6 Weight 135 Hair Brown Glasses
Y N




AFFIDAVIT OF SERVICE For 21CV15881

I declare under penalty of perjury that I am a resident of the State of service. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding and am authorized to serve the process described herein. I certify that the person, firm, or corporation served is the identical one named in this action. I am not a party to nor an officer, director, or employee of, nor attorney for any party, corporate or otherwise.

Subscribed and Sworn to before me on the 3rd
day of May, 2021 by the affiant who
is personally known to me.


NOTARY PUBLIC

KIMBERLY J. RYAN
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires March 31, 2024


Danielle Stevens
PROCESS SERVER # No #'s in Delaware
Appointed in accordance with State Statutes

BARRISTER SUPPORT SERVICE, INC.
11349 SW 60th Ave.
Portland, OR 97219-6754
(503) 246-8934

Our Job Serial Number: 2021002084
Ref: OR-F210